

UNITED STATES DISTRICT COURT  
DISTRICT OF RHODE ISLAND

James W. Cooke,  
Jennifer Cooke, and  
Jonathan V. Cooke

VS.

C.A. NO. 12-176

Option One Mortgage Corporation;  
Sand Canyon Corporation; American  
Home Mortgage, Servicing, Inc.;  
Bank of America, NA, as Trustee  
For Structured Asset Investment  
Loan Trust, Mortgage Pass-Through  
Certificates, Series 2004-8; and  
US Bank, NA, as Trustee for  
Structured Asset Investment Loan Trust,  
Mortgage Pass-Through Certificates, Series 2004-8

**MOTION FOR RELIEF FROM THE STAY AND FOR SANCTIONS**

Now come the Plaintiffs, and hereby move this Honorable Court for relief from the stay for the sole purpose of this court to consider sanctions relative to the actions of American Home Mortgage Servicing, Inc. (“AHMSI”); U.S. Bank, NA, as Trustee for Structured Asset Investment Loan Trust, Mortgage Pass-Through Certificates, Series 2004-8 (“U.S. Bank”); and Nicholas Barrett & Associates.

On or about March 12, 2012, Plaintiffs filed the instant action contesting U.S. Bank’s standing to foreclose on the subject property. The instant action is a real estate foreclosure challenge subject to the Honorable Justice McConnell’s master foreclosure docket, c.a. no. 11-mc-88. On August 16, 2011, Justice McConnell ordered all cases falling under the umbrella of the master foreclosure docket **“STAYED”**. On or about January 5, 2012, Justice McConnell appointed Merrill Sherman as Special Master charged with negotiating settlements of the

mortgage foreclosure cases and reiterated that the “STAY” is in effect. Upon filing of the instant case, all foreclosure proceedings were stayed.

On or about January 12, 2012, Joseph Dolben, Esq. of Nicholas Barrett & Associates was assigned as counsel in the master foreclosure docket. As of January 12, 2012, Attorney Dolben and Nicholas Barrett & Associates are charged with notice of the orders staying action in cases subject to the master foreclosure docket. On or about March 15, 2012 at 10:28 A.M., a copy of the Complaint was e-mailed to Attorney Dolben and Plaintiffs’ counsel requested that the auction be stopped. On March 15, 2012 at 11:10 A.M., Plaintiffs’ counsel received a notification that Attorney Dolben had read the e-mail and had actual knowledge of both the stay and request to cancel the auction. (Copies of the e-mail documentation are attached to this motion. On March 15, 2012 at approximately 3:00 P.M., Plaintiffs’ counsel called Nicholas Barrett & Associates and demanded the auction be cancelled. In the face of this Court’s orders and Plaintiffs’ e-mails and telephone calls, U.S. Bank conducted the auction. A third party was the highest bidder at the auction.

Plaintiffs’ move this Honorable Court for relief from order staying all proceedings in the mortgage foreclosure cases and for sanctions against AHMSI (the “Servicer”), U.S. Bank (the “foreclosing entity”), and Nicholas Barrett & Associates (“Foreclosure Attorney”) for violation of this Honorable Court’s stay. Each of the above referenced entities has knowingly and brazenly ignored Judge McConnell’s orders. The intent of Judge McConnell’s orders is to foster settlement negotiations. Again and again, Defendant financial entities are determined to disregard this Court’s orders, the rule of law, and federal loan workout programs in favor of the “all mighty dollar.” The Defendants, like Midas, exhibit greed and a lust for wealth. Midas only learned the dangers of the “golden touch” after he turned his food into gold and almost starved to

death. This motion seeks to teach all Defendants in the master foreclosure docket the same lesson. Plaintiffs move this Honorable Court to 1) rescind the foreclosure sale, 2) award attorney's fees for drafting and filing this motion, and 3) for any and all other remedies that this Honorable Court deems fit to deter Defendants from engaging in similar conduct.

**NOW WHEREFORE**, Defendants pray this Court grants Plaintiffs Motion for Relief from the Stay and for Sanctions against AHMSI, U.S. Bank, and Barrett.

Defendants  
By their attorneys,

/s/ Corey J. Allard, Esq.

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Corey J. Allard, Esq #7476  
George E. Babcock, Esq. #3747  
574 Central Avenue  
Pawtucket, RI 02861

**Certification**

I hereby certify that the above was filed using the CM/ECF system and e-mailed to the below named counsel on the 15<sup>th</sup> day of March, 2012.

Joseph Dolben, Esq.  
Nicholas Barrett and Associates  
999 South Broadway  
East Providence, RI 02914

/s/ Corey J. Allard, Esq.

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